**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
**REGION 1 – NEW ENGLAND**
5 Post Office Square, Suite 100
Boston, MA 02109-3912

**CERTIFIED MAIL**

*April 25, 2019*

Tim Kanaly, CEO
Something Sweet, Inc.
724 Grand Avenue
New Haven, CT 06511

Re: Information Request Pursuant to the Clean Air Act and the Comprehensive Environmental Response, Compensation and Liability Act

**RESPONSE REQUIRED WITHIN THIRTY (30) DAYS OF RECEIPT**

Dear Mr. Kanaly:

Recently, the United States Environmental Protection Agency ("EPA") learned that Something Sweet, Inc. ("SSI" or "you") may have experienced an ammonia release, on January 7, 2018, at its baking facility located at 724 Grand Avenue in New Haven, Connecticut (the "Facility"). According to news reports, the ammonia release triggered action from emergency response personnel who were called to the Facility (see attached). My staff were not able to locate a release report for this incident at the Facility.

When searching the Connecticut database for SSI's reporting under the federal Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. §§ 11001 *et seq.*, EPA finds that SSI reported the presence of 8,500 pounds of anhydrous ammonia at the Facility for 2017.

This letter seeks information about the SSI's compliance with:

(a) the **chemical release prevention requirements** of Section 112(r) of the Clean Air Act ("CAA" or "Act"), 42 U.S.C. § 7412(r); and
(b) the **chemical release reporting requirements** of Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9603, and Section 304 of Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11004.

This letter also conveys some compliance assistance information to help you comply with environmental laws relating to the use of anhydrous ammonia at the Facility.

Information Request

Under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), EPA is authorized to require a company to submit such information as EPA may reasonably require to determine compliance with the Act. Likewise, under Section 104(e)(2) of the CERCLA, 42 U.S.C. § 604(e)(2), EPA is authorized to obtain information from companies about releases or threatened releases of hazardous substances.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413, and Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5). These statutes permit EPA to seek the imposition of penalties. This reporting requirement is not subject to Office of Management and Budget review under the Paperwork Reduction Act. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2, Subpart B. If no such claim accompanies the information when EPA receives it, EPA may make the information available to the public without further notice to you.

You are required to submit the above-referenced information in writing and by electronic mail (*except no confidential business information should be submitted electronically*)[1] to:

Mary Jane O'Donnell
Office of Environmental Stewardship (Mail Code OES 05-1)
U. S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

[1] Please do not submit by electronic mail any information for which you assert a claim of confidential business information (CBI). All such CBI-claimed materials must be submitted, in hard copy or compact disc format, using the above-listed EPA address.

Information Request – Something Sweet, Inc. (New Haven ,CT)

As part of your response to this Information Request, please complete the enclosed Declaration (Attachment 1) and, following the Instructions in Attachment 2, provide a complete response to the questions in Attachment 3.

Compliance Assistance Resources

To provide you with some compliance assistance, this letter also conveys information to help SSI comply with environmental laws relating to the use of anhydrous ammonia. The following documents are enclosed in the Compliance Assistance section of this letter:

(a) Anhydrous ammonia chemical data sheet from CAMEO Chemicals;
(b) A fact sheet about the CAA General Duty Clause;
(c) A fact sheet about reporting requirements of the Emergency Planning and Community Right-to-Know Act; and
(d) An information sheet for small businesses.

If you have any questions, please contact Mary Jane O'Donnell, at (617) 918-1371.

Sincerely,

James Chow, Manager
Technical Enforcement Branch
Office of Environmental Stewardship

Carol Tucker, Chief
Emergency Planning and Response Branch
Office of Site Remediation & Restoration

Enclosures

# ATTACHMENT 1

(*Complete and include with your response*)

## DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
**[Title]** **[Name of Facility]**

that I am authorized to respond on behalf of

_____, and
**[Name of Facility]**

that the foregoing is a complete, true, and correct response.

Executed on _____ _____
**[Date]** **[Signature]**

_____
**[Type Name and Title]**

# ATTACHMENT 2

## INSTRUCTIONS AND DEFINITIONS

**Instructions**

1. Please provide a separate narrative response to each and every question set forth in this Information Request.

2. Precede each answer with the number of the question to which it corresponds.

3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response.

4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.

5. For any document that is responsive to a question set forth in this Information Request that is no longer available to you as of the date of submission of your response, provide the name of the document and contact information for any person(s) who prepared the document and/or had knowledge of its contents.

6. The information requested herein must be provided even though you may contend that it includes possible confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to Section 114(c) of the CAA, 42 U.S.C. § 7414(c), and 40 C.F.R. § 2.203(b), by attaching to such information at the time it is submitted a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," or "proprietary," or "company confidential." Information covered by such a claim will be disclosed by EPA only to the extent, and only by means, of the procedures set forth in the statute and regulation identified above. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. *Please do not submit by electronic mail any information that is claimed confidential.*

**Note that the burden of proof is on you to demonstrate that information claimed as confidential satisfies the criteria set forth in 40 C.F.R. § 2.208.** If any portion of your response contains information which you claim as confidential, you must submit two

copies of any such "confidential business information" in accordance with the following procedures:

a. The first copy of any document containing such "confidential business information" must be complete and contain all information. Additionally, each such page must be marked conspicuously to indicate that it is claimed as confidential.

b. The second copy of any document that is subject to a CBI claim must be redacted so that it contains only information that is not claimed as confidential.

**Definitions**

The following definitions shall apply to the following words as they appear in Attachment 3:

1. The term "you," "your," or "SSI" shall include Something Sweet, Inc.

2. The term "person" shall have the same definition as in Section 302(e) of the CAA and Section 9601 of CERCLA, (i.e., an individual, corporation, partnership, association, State, municipality, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof).

3. The term "document" or "documentation" includes any object that contains, records, stores or presents information, whether in paper, electronic or any other form.

4. The term "identify" means, with respect to a *natural person*, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

5. The term "identify" means, with respect to a *corporation, partnership, business trust or other association or business entity* (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

6. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.

7. The term "Facility" refers to the Something Sweet, Inc. facility located at 724 Grand Avenue in New Haven, Connecticut.

8. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

9. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in the Clean Air Act, CERCLA, 40 C.F.R. Part 68, or 40 C.F.R. Part 302, in which case the statutory or regulatory definitions shall apply.

10. A requested document, item or information shall be deemed to be in your "possession, custody or control" if you know where it is and can obtain access to it, even if it is not presently in your possession.

# ATTACHMENT 3

## QUESTIONS

Please provide a separate response to each question in this Information Request. You may fill in the questions by hand or answer them in a separate document. Precede each answer with the number of the question to which it corresponds.

**Questions about Who Owns and Operates the Facility**

1. What entity owns the Facility? _____

2. What entity operates the Facility? _____

**Questions about Ammonia Inventory**

3. Does the Facility have any refrigeration systems that use anhydrous ammonia? Yes ___ No ___ If yes, how many?_____

4. What is the inventory of anhydrous ammonia (in pounds) contained within each ammonia refrigeration system referenced in your answer to Question 3 above? (list individually)[2]

| Refrigeration System | Inventory of Anhydrous Ammonia (pounds) |
|---|---|
| | |
| | |
| | |

[2] For your information, there are three methods that are typically used to determine the inventory of anhydrous ammonia in a refrigeration system ("System"). Each method is briefly described below:

- Method 1: Document the ammonia charges to the System – *This method involves estimating the inventory by keeping documentation of all ammonia charges to the System since the original charge. This option is not recommended for systems that have undergone significant changes or ammonia losses.*
- Method 2: Document inventory via System pump-down – *This option can be used when the System is shut down for maintenance, and the ammonia is either completely removed from the System or returned to one or more vessels in the system.*
- Method 3: Engineering calculations of individual System components to estimate the amount of ammonia in the System – *This method involves performing inventory calculations on the components of the System that contain liquid-phase ammonia, such as vessels, pipes, receivers, condensers, surge drums, evaporators, oil coolers, etc.*

Various organizations offer on-line calculators or other resources to help determine inventory amounts, including, for example, the International Institute for Ammonia Refrigeration and the Industrial Refrigeration Consortium.

**Questions about the Ammonia Release**

5. Provide the following information about the release that occurred on January 7, 2018:

   a. How much anhydrous ammonia was released? _____

   b. How was the quantity determined?

   _____

   _____

   c. Who made the determination about the amount?

   _____

   d. On which days did any reportable release (i.e., of at least 100 pounds) occur?

   _____

   e. Who at SSI was made aware of the release while it was happening?

   _____

   _____

   f. Were any authorities notified? Yes ___ No ___ If so, which authorities and on what day and time?

   _____

   _____

   _____

   _____

   g. Who notified the authorities?_____

   h. Did the release go off-site? Yes ___ No ___ If so, please describe.

   _____

   _____

   _____

   _____

   i. Provide information about any follow-up EPCRA or CERCLA reporting, including dates that such reports were made and copies of such reports, if available:

   _____

   _____

   _____

   _____

## Questions about Identification of Hazards at the Facility

Requirement for Hazard Identification: Anhydrous ammonia is an extremely hazardous substance listed in Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3). Owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, or any other extremely hazardous substance, have a general duty to (1) *identify hazards* which may result from accidental releases of such substances using appropriate hazard assessment techniques; (2) *design and maintain a safe facility* taking such steps as are necessary to prevent releases; and (3) *minimize the consequences of accidental releases* that do occur.

A guidance that further explains these duties may be found at www.epa.gov/emergencies/docs/chem/gdcregionalguidance.pdf. To satisfy the first duty listed above, facilities having less than 10,000 pounds of anhydrous ammonia in a refrigeration system must conduct a process hazard review. Typical methodologies include use of an industry checklist or a What-if Analysis.[3] Those facilities having more than 10,000 pounds of anhydrous ammonia in a refrigeration system must conduct a process hazard analysis following the requirements of 40 C.F.R. § 68.67.

6. Has a process hazard review/analysis been performed on each ammonia refrigeration system referenced in your answer to Questions 3 and 4 above?
   Yes ___ No ___

   If yes, specify the type of review, the year of the review, and who conducted it in the table below.

| Refrigeration System | Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other) | Year of Process Hazard Review | Who Conducted Hazard Review (Specify outside team, your company, insurance company, or other) |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

[3] The recommended industry practice and standard of care for ammonia refrigeration systems of this size would be to identify hazards using industry checklists or a What-if analysis. See e.g., the International Institute of Ammonia Refrigeration's ("IIAR's") *Ammonia Refrigeration Management Program* (2005), Section 10; EPA's *Guidance for Implementation of the General Duty Clause Clean Air Act Section 112(r)(1),* available at http://www.epa.gov/oem/docs/chem/gdcregionalguidance.pdf; and IIAR Bulletin No. 110, *Start-up, Inspection and Maintenance of Ammonia Mechanical Refrigerating Systems* (1993, rev. 2002) Section 5.2.1 [The owner shall confirm that a Process Hazard Analysis has been completed and that recommendations have been resolved or implemented.]

**Questions about the Facility's Compliance with Key Safety Measures to Both Prevent Chemical Releases and Minimize the Effects of Any Release that Does Occur**

7. For each ammonia refrigeration system referenced in your answer to Questions 3 and 4 above, please state whether each of the following key safety measures are in place. This is not intended to be a complete list of important safety measures, but rather a limited subset that will give EPA some sense of whether each system is designed and operated to prevent an ammonia release and minimize the effect of any release that could occur. For ease of responding, this question has been set up in a checklist format that you can just fill out for each refrigeration system.

   a) Understanding the Hazards Posed by the System –
   Hazard Addressed: Releases or safety deficiencies that stem from a failure to identify hazards in design/operation of system
      i. For systems that employ hot gas defrost, the Facility's process hazard analysis/review includes an analysis of, and identifies, the engineering and administrative controls for the hazards associated with the potential of vapor propelled liquid slugs and condensation-induced hydraulic shock events. ☐Yes ☐No

   b) Operating Activities –
   Hazard Addressed: High risk of release from operating or maintenance activity
      i. System(s) has self-closing/quick closing valves on all oil pots. ☐Yes ☐No
      ii. Facility has written procedures for System maintenance and operation activities. ☐Yes ☐No
      iii. Only authorized persons have access to refrigeration machinery room and the ability to alter safety settings on equipment. ☐Yes ☐No
      iv. Written procedures are in place for proper use and care of personal protective equipment. ☐Yes ☐No
      v. If respirators are used, facility personnel know the location of respirators, and they are inspected and maintained per manufacturer or industry standards. ☐Yes ☐No

   c) Maintenance/Mechanical Integrity –
   Hazard Addressed: Leaks/releases from maintenance neglect
      i. A preventative maintenance program is in place to, among other things, detect and control corrosion, deteriorated vapor barriers, ice buildup, and pipe hammering, and to inspect integrity of equipment/pipe supports. ☐Yes ☐No
      ii. All piping system openings except the relief header are plugged or capped, or valve is locked. ☐Yes ☐No
      iii. Equipment, piping, and emergency shutdown valves are labeled for easy identification, and pressure vessels have legible, accessible nameplates. ☐Yes ☐No

iv. All atmospheric pressure relief valves have been replaced in the last five years with visible confirmation of accessible pressure relief valves.
☐Yes ☐No

d) Machinery Room –
Hazard Addressed: Inability to isolate and properly vent releases

i. The System(s) has/have emergency shut-off and ventilation switches outside each machinery room. ☐Yes ☐No
ii. The machinery room(s) has/have functional, tested, ventilation. Air inlets are positioned to avoid recirculation of exhaust air and ensure sufficient inlet air to replace exhausted air. ☐Yes ☐No
iii. Documentation exists to show that pressure relief valves that have a common discharge header have adequately sized piping to prevent excessive backpressure on relief valves, or if built prior to 2000, have adequate diameter based on the sum of the relief valve cross-sectional areas.
☐Yes ☐No
iv. The Facility has engineering controls in place to protect equipment and piping against overpressure due to hydrostatic expansion of trapped liquid refrigerant. Administrative controls are acceptable where hydrostatic overpressure can occur only during maintenance operations. ☐Yes ☐No
v. Eyewash station(s) and safety shower(s) is/are present and functional.
☐Yes ☐No

e) Emergency Actions –
Hazard Addressed: Inability to regain control and reduce release impact

i. Emergency response communication has occurred or has been attempted with the Local Emergency Planning Committee and local responders. Provide the date of the last communication.
☐Yes Date_____ ☐No
ii. The Facility has an Emergency Action Plan pursuant to 29 C.F.R. § 1910.38(a), an Emergency Response Plan pursuant to 29 C.F.R. § 1910.120(q) and 40 C.F.R. § 68.95, or an Integrated Contingency Plan pursuant to guidance in 61 Fed. Reg. 28642 (June 5, 1996). ☐Yes ☐No
iii. Critical shutoff valves are accessible, and a schematic is in place to show responders where to access them. ☐Yes ☐No
iv. The Facility has ammonia detectors and alarms to detect a release of ammonia.
☐Yes ☐No

# COMPLIANCE ASSISTANCE RESOURCES

## KEY SAFETY MEASURES

***As part of the Chemical Accident Risk Reduction national enforcement initiative, EPA developed the following key safety measures for inspection of ammonia refrigeration systems and has reviewed them with the International Institute of Ammonia Refrigeration ("IIAR"). They are measures that EPA has determined should be in place, regardless of an ammonia refrigeration system's age or size, for the system to meet the requirements of 40 C.F.R. Part 68 or the Clean Air Act's General Duty Clause, 42 U.S.C. § 7412(r)(1). This is not intended to be a complete list of important safety measures but rather a subset of easily verifiable items that could help facilities prevent ammonia releases and prepare for any releases that do occur. Compliance with the measures in this list does not replace the obligation to comply with EPA's Risk Management Program found at 40 C.F.R. Part 68 (for systems with more than 10,000 lbs of ammonia) or the Clean Air Act's General Duty Clause. For more information, please visit https://www.epa.gov/rmp.***

*Identifying Hazards*

- Hazard Addressed: Releases or safety deficiencies that stem from a failure to identify hazards in design/operation of system
    - Facility has completed a process hazard analysis or review.

*Operating Activities*:

- Hazard Addressed: High risk of release from operating or maintenance activity
    - System has self-closing/quick closing valves on oil pots.
    - Facility has written procedures for maintenance and operation activities.
    - Only authorized persons have access to machinery room and the ability to alter safety settings on equipment.

*Maintenance/Mechanical Integrity:*

- Hazard Addressed: Leaks/releases from maintenance neglect
    - A preventative maintenance program is in place to, among other things, detect and control corrosion, deteriorated vapor barriers, ice buildup, and pipe hammering, and to inspect integrity of equipment/pipe supports.
    - All piping system openings except the relief header are plugged or capped, or valve is locked.
    - Equipment, piping, and emergency shutdown valves are labeled for easy identification, and pressure vessels have legible, accessible nameplates.

- All atmospheric pressure relief valves have been replaced in the last five years with visible confirmation of accessible pressure relief valves [note – replacement every five years is the general rule but there are two other options in IIAR Bulletin 110, 6.6.3].

*Machinery Room and System Design*

- Hazard Addressed: Inability to isolate and properly vent releases
  - The System(s) has/have emergency shut-off and ventilation switches outside each machinery room.
  - The machinery room(s) has/have functional, tested, ventilation. Air inlets are positioned to avoid recirculation of exhaust air and ensure sufficient inlet air to replace exhausted air.
  - Documentation exists to show that pressure relief valves that have a common discharge header have adequately sized piping to prevent excessive backpressure on relief valves, or if built prior to 2000, have adequate diameter based on the sum of the relief valve cross sectional areas.

*Emergency Actions*

- Hazard Addressed: Inability to regain control and reduce release impact
  - Critical shutoff valves are accessible, and a schematic is in place to show responders where to access them.
  - EPCRA Tier II reporting is up to date.

## ADDITIONAL COMPLIANCE ITEMS

*Identifying Hazards*

- For systems that employ hot gas defrost, the process hazard analysis/review includes an analysis of, and identifies, the engineering and administrative controls for the hazards associated with the potential of vapor propelled liquid slugs and condensation-induced hydraulic shock events.

*Operating Activities and Maintenance/Mechanical Integrity*

- Written procedures are in place for proper use and care of personal protective equipment.
- If respirators are used, facilities know the location of their respirators, and they are inspected and maintained per manufacturer or industry standards.
- All changes to automation systems (programmable logic controls and/or supervisory control and data acquisition systems) if present, are subject to management of change procedures.

*Machinery Room and System Design*

- The facility has engineering controls in place to protect equipment and piping against overpressure due to hydrostatic expansion of trapped liquid

refrigerant. Administrative controls are acceptable where hydrostatic overpressure can occur only during maintenance operations.

- Eyewash station(s) and safety shower(s) is/are present and functional.

*Emergency Actions*

- Emergency response communication has occurred or has been attempted with the Local Emergency Planning Committee and local responders.
- The facility has an emergency action plan pursuant to 29 C.F.R. § 1910.38(a) or an emergency response plan pursuant to 29 C.F.R. § 1910.120(q) and 40 C.F.R. § 68.95.

## ENCLOSURES

(*Listed in Cover Letter*)